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Serial No. 09/821,060
Amendment in Reply to Office Action mailed on December 28, 2005

REMARKS

This Amendment is being filed in response to the Office Action dated December 28, 2005, which has been reviewed and carefully considered.

By means of the present amendment, claim 8 has been canceled without prejudice, and claims 1, 6-7, 9 and 11-20 have been amended. Claims 1-7 and 9-20 are now pending in this application, with claims 1, 7 and 11-12 being the only independent claims.

Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

By means of the present amendment, claims 1, 6-7, 9 and 11-20 have been amended for better clarity. Claims 1, 6-7, 9 and 11-20 were not amended in order to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to claim 8 as being improperly dependent for failing to limit the subject matter of a previous claim. In response, claim 8 has been canceled without prejudice. Accordingly, Applicant respectfully requests

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that this ground for objection of claim 8 be withdrawn.

In the Office Action, claims 1-20 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent Application Publication No. 2002/0129368 (Schlack) in view of U.S. Patent No. 6,271,863 (Bose). It is respectfully submitted that claims 1-7 and 9-20 are patentable Schlack and Bose for at least the following reasons.

Schlack is directed to a profiling a television viewer by monitoring the viewer's interactivity as well as viewing history and habits, and based thereon, generating a viewer profile. The Schlack system infers which viewers are interacting with the TV at a particular time. Such viewer identification and profile generation are used to deliver targeted content. Network viewership is presented in a table shown in FIG 21A, with viewed times in seconds included for different networks at different times of a day.

As correctly noted by the Examiner, Schlack does not teach or suggest graphical representations. It is respectfully submitted that, in addition, Schlack also does not teach or suggest a multiplicity of axes, as recited in independent claims 1 and 7.

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Further, Schlack does not teach or suggest a mechanism that allows changing a value associated with a position on an axis or allows changing a viewer profile by traversing along the axis, as recited in independent claims 1, 7 and 11-12. Bose is cited in an attempt to remedy the deficiencies in Schlack.

At the outset, it is respectfully submitted that there is no motivation or suggestion to combine Schlack and Bose. The prior art must be examined in light of the teachings of the prior art. The prior art may not be examined utilizing the teachings of the present application.

Applicant respectfully submits that present invention as recited in independent claims 1, 7 and 11-12 can only be arrived using impermissible hindsight. There is nothing whatsoever in Schlack and Bose, or combination thereof, to suggest allowing changes to a value associated with position, or to a profile, as an axis is traversed, as recited in independent claims 1, 7 and 11-12.

Without utilizing the teachings of the present application as a road map and hindsight reasoning, a person skilled in the art could not, in an obvious manner, arrive at the present invention as recited in independent claims 1, 7 and 11-12.

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In consideration of the use of improper hindsight for rendering a claim obvious in light of the prior art, the Federal Circuit has stated that "to draw on hindsight knowledge of the patented invention, when the prior art does not contain or suggest that knowledge, is to use the invention as a template for its own reconstruction - an illogical and inappropriate process by which to determine patentability." (Sensonics, Inc. v. Aerosonic Corp., 81 F.3d 1566, 38 USPQ2d 1551 (Fed. Cir. 1996). "To imbue one of ordinary skill in the art with knowledge of the invention ensued, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." (In re Zurko, 111 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997). "A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field (cited reference omitted). Close adherence to this methodology is especially important in cases where the very ease with which the

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invention can be understood may prompt one 'to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher (cited references omitted).'" (In re Kotzab, 208 F.3d 1352, 54 USPQ2d 1308 (Fed. Cir. 2000). (Emphasis added)

On page 3 of the Office Action, column 1, lines 52-55 of Bose is cited to show motivation to combine. Column 1, lines 52-55 of Bose merely recite:

Broadly, it is the object of the present invention to provide an improved user interface for graphically exploring the results of a computation in an interactive manner.

It is respectfully submitted that this section of Bose provides no suggestion or desirability to combine Bose with Schlack. In Schlack, the user is performing no computation; rather, mere data is presented to the user in FIG 21A. Schlack is not concerned with user interaction; rather Schlack is concerned with user profiling and identification. There is no motivation to combine Schlack with Bose, where Bose is concerned with changing cash flow and/or interest rate and graphical display of computation results in response to the changed cash flow and/or interest rate.

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Assuming, arguendo, that the combination of Schlack and Bose is proper, it is still respectfully submitted that the present invention as recited in independent claims 1, 7 and 11-12, is nowhere taught or suggested in Schlack, Bose and combination thereof.

In particular, Bose is directed to an interactive method for displaying results of a computation, in response to changing independent variables such as cash flow 105 and interest rate 107, resulting in a change in the value of a back account 103, as shown in FIG 1. The cash flow 105 may be changed by moving arrows located at a particular position along an axis indicating the accounting period. The interest rate 107 is changed by moving an interest slider 108. As noted above, the cash flows 105 are located at particular positions along an axis the accounting period axis there are no means to move along this axis.

In stark contrast, the present invention as recited in independent claims 1 and 7, amongst other patentable elements, requires (illustrative emphasis provided):

at least one of the multiplicity of axes has an altering mechanism allowing a value associated with a position on the at least one axis to be

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changed along the at least one axis.

Further, the present invention as recited in independent claim 11, and similarly recited in independent claim 12, amongst other patentable elements, requires (illustrative emphasis provided):

modifying said television viewer profile via an access mechanism that allows a viewer traversing of a time axis.

These features are nowhere taught or suggested in Schlack, Bose, and combinations thereof. Accordingly, it is respectfully submitted that independent claims 1, 7 and 11-12 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-6, 8-10 and 13-20 should also be allowed based at least on their dependence from independent claims 1, 7 and 11-12.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of

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the Examiner's statements are conceded.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicant's representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to Deposit Account No. 50-3649.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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